

United States District Court

DISTRICT OF Massachusetts

UNITED STATES OF AMERICA

V.

CRISTINA FIALHO CASSIANO

CRIMINAL COMPLAINT

CASE NUMBER:

04-M-00051-LPC

(Name and Address of Defendant)

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief. On or about August 31, 2003 in Middlesex county, in the

District of Massachusetts defendant(s) did, (Track Statutory Language of Offense)

(1) was found in the United States after having been denied admission, excluded, deported or removed, without having applied for and received permission from the Attorney General or the Secretary of the Department of Homeland Security to reenter the United States; and (2) on or about August 8, 2001, defendant did for the purpose of obtaining anything of value from any person, or for any other purpose, willfully, knowingly and with intent to deceive use a social security account number assigned by the Commissioner of Social Security on the basis of false information furnished to the Commissioner of Social Security by the defendant or by any other person.

in violation of Title 8, 42 United States Code, Section(s) 1326(a), 408(a)(7)(A)

I further state that I am a(n) ICE Special Agent and that this complaint is based on the following
Official Title

facts:

See Attached Affidavit

Continued on the attached sheet and made a part hereof:

☒ Yes

☐ No


Signature of Complainant

Sworn to before me and subscribed in my presence,

08-31-2004

Date

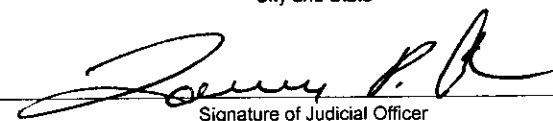
at

Boston, Massachusetts

City and State

LAWRENCE P. COHEN
UNITED STATES MAGISTRATE JUDGE

Name & Title of Judicial Officer


Signature of Judicial Officer

AFFIDAVIT OF SPECIAL AGENT GLEN FITZPATRICK

I, Glen Fitzpatrick, having been duly sworn, do hereby depose and state as follows:

1. I am a Special Agent with Immigration and Customs Enforcement ("ICE"), formerly the United States Immigration and Naturalization Service ("INS"), and have been so employed since January of 1992. My duties include investigating violations of Title 8 of the United States Code as well as Title 18. During the period of my employment, I have conducted numerous investigations of regarding illegal re-entry by deported aliens as well as other criminal violations.

2. The information set forth in this affidavit is based on my own investigation, my review of relevant ICE records, and information provided by others, including special agents of the United States Social Security Administration ("SSA"), Office of the Inspector General, Office of Investigations. This affidavit does not contain all information received during the course of the investigation but contains those facts that I believe are necessary and sufficient to establish probable cause for the issuance of the requested criminal complaint charging CRISTINA FIALHO CASSIANO with illegal re-entry by a deported alien in violation of Title 8, United States Code, Section 1326(a)¹ and

¹8 U.S.C. §1326(a) reads in pertinent part: Any alien who - has been denied admission, excluded, deported or removed ...while an order of the exclusion, deportation, or removal is outstanding

social security account number fraud in violation of 42 U.S.C. Section 408(a)(7)(A)²⁵.

Illegal Re-entry

3. CASSIANO is a native and citizen of Brazil. On December 4, 1999, CASSIANO entered or attempted to enter the United States at Orlando International Airport. CASSIANO was apprehended and placed in expedited removal proceedings. On December 4, 1999, CASSIANO was ordered removed. On December 5, 1999, CASSIANO was actually deported to Brazil. The Notice and Order of Expedited Removal/departure Verification evidences CASSIANO's deportation, bearing CASSIANO's fingerprint, and her picture.

4. On August 31, 2004, CASSIANO was found in the United States at 258 Union Avenue in Framingham, Massachusetts.

, and thereafter, enters, attempts to enter, or is at any time found in, the United States, unless (A) prior to his re-embarkation at a place outside the United States or his application for admission from foreign contiguous territory, the Attorney General or the Secretary of the Department of Homeland Security has expressly consented to such alien's reapplying or admission...[is guilty of a crime.]

²⁴2 U.S.C. §408(a)(7)(A) reads in pertinent part: Whoever ... for the purpose of obtaining anything of value from any person, or for any other purpose- (A) willfully, knowingly, and with intent to deceive, uses a social security account number, assigned by the Commissioner of Social Security (in the exercise of the Commissioner's authority under section 405(c)(2) of this title to establish and maintain records) on the basis of false information furnished to the Commissioner of Social Security by him or by any other person [shall be guilty of a crime.]

CASSIANO's alien registration file does not contain any evidence that Defendant, while outside the United States, applied for or received the express permission of the United States Attorney General prior to March 1, 2003 or the Secretary of the Department of Homeland Security subsequent to March 1, 2003 to re-enter the United States since the date of her deportation.

Fraudulent Use of Social Security Account Number Card

5. I am aware that the Social Security Act (42 U.S.C. 301 et seq.) was enacted in 1935 to provide for the general welfare by establishing a system of Federal Benefits. The Social Security Number ("SSN"), a nine digit number, was devised as a means to keep track of the earnings of individuals who work under covered employment. Along with the SSN, the Social Security Number Card ("SSNC") was created. SSNCs are issued with or without employment restrictions depending upon the eligibility of the individual making application. The Social Security Number Card bears a Social Security Number; shows the name of the person whose record is identified by that SSN; and contains a space for the person's signature.

6. CASSIANO is a native and citizen of Brazil and, according to records maintained by Immigration and Customs Enforcement, the defendant is not present legally in the United States.

7. As an alien illegally present in the United States, the Defendant was not entitled to receive a Social Security Account number card.

8. On May 14, 2001, CASSIANO applied for a social security account number card. CASSIANO falsely represented on the application, known as an SS-5, that she is a "legal alien allowed to work," knowing that, in truth and in fact, CASSIANO was not a "legal alien allowed to work."³

9. As a result of providing false information, CASSIANO received social security account number 634-76-6032.

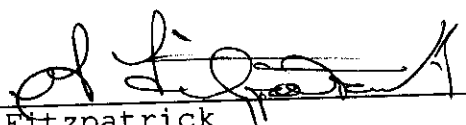
10. The Massachusetts Registry of Motor Vehicles ("RMV") requires that an individual applying for a driver's license present proof of identification such as a valid social security account number.

11. On August 8, 2001, CASSIANO applied for a Massachusetts driver's license. On the application, CASSIANO used the SSN she fraudulently obtained by providing the SSN to the RMV. As a

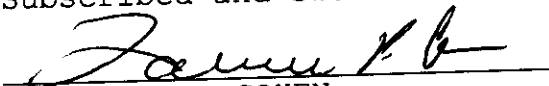
³Defendant's SS-5 application was processed by former SSA employee Jesse Rocha. On September 8, 2003, Jesse Rocha pled guilty to conspiracy to commit fraud in connection with identification documents in violation of Title 18, United States Code Section 1028(f); conspiracy to commit offenses against the United States in violation of 18 U.S.C. §371; conspiracy to launder monetary instruments in violation of 18 U.S.C. §1956(h) and fraud and misuse of documents in violation of 18 U.S.C. §1546(a). During his plea colloquy, Rocha admitted to processing and approving over 1700 applications for SSNCs for illegal aliens during the period from April of 2000 until December of 2002. See 02-10405-GAO.

result, a Massachusetts driver's license was issued to CASSIANO.

Based upon the foregoing information, I believe there is probable cause to believe that on August 31, 2004, CASSIANO (1) having been denied admission, excluded, deported and removed while an order of exclusion, deportation or removal was outstanding, thereafter, was found in the United States without having received the express consent of the United States Attorney General prior to March 1, 2003 or the Secretary of the Department of Homeland Security subsequent to that date, in violation of 8 U.S.C. §1326(a); and (2) did willfully, knowingly, and with intent to deceive, use a Social security account number, assigned by the Commissioner of Social Security on the basis of the false information furnished to the Commissioner of Social Security by the defendant and other persons on the defendant's behalf, to apply for and to obtain a Massachusetts driver's license in violation of Title 42, U.S.C. §408(a)(7)(A).


Glen Fitzpatrick
Special Agent
Immigration and Customs Enforcement

Subscribed and sworn to before me this 31st day of August, 2004


LAWRENCE P. COHEN
UNITED STATES MAGISTRATE JUDGE

JS 45 (5/97) - (Revised USAO MA 1/15/04)

U.S. District Court - District of Massachusetts

Criminal Case Cover Sheet

Place of Offense: _____ Category No. II Investigating Agency ICE

City Framingham Related Case Information:
 County Middlesex Superseding Ind./ Inf. _____ Case No. _____
 Same Defendant _____ New Defendant _____
 Magistrate Judge Case Number _____
 Search Warrant Case Number _____
 R 20/R 40 from District of _____

Defendant Information:

Defendant Name Cristina Fialho CASSIANO Juvenile ☐ Yes ☒ No

Alias Name _____

Address 258 Union Avenue, Apt 7, Framingham, MassachusettsBirth date (Year only): 1978 SSN (last 4 #): 6032 Sex F Race: HISPANIC Nationality: BRAZIL

Defense Counsel if known: _____ Address: _____

Bar Number: _____


U.S. Attorney Information:

AUSA Seth P. Berman Bar Number if applicable 629332Interpreter: ☒ Yes ☐ No List language and/or dialect: PortugueseMatter to be SEALED: ☐ Yes ☒ No☐ Warrant Requested ☐ Regular Process ☒ In Custody

Location Status:

Arrest Date: August 31, 2004☐ Already in Federal Custody as _____ in _____☐ Already in State Custody _____ ☐ Serving Sentence ☐ Awaiting Trial☐ On Pretrial Release: Ordered by _____ on _____Charging Document: ☒ Complaint ☐ Information ☐ IndictmentTotal # of Counts: ☐ Petty ☐ Misdemeanor ☒ Felony Two

Continue on Page 2 for Entry of U.S.C. Citations

☒ I hereby certify that the case numbers of any prior proceedings before a Magistrate Judge are accurately set forth above.Date: August 31, 2004Signature of AUSA: 

JS 45 (5/97) - (Revised USAO MA 3/25/02) Page 2 of 2 or Reverse

District Court Case Number (To be filled in by deputy clerk): _____

Name of Defendant Cristina Fialho CASSIANO

U.S.C. Citations

Description of Offense ChargedCount Numbers

	<u>Index Key/Code</u>	<u>Description of Offense Charged</u>	<u>Count Numbers</u>
Set 1	<u>8 USC 1326(a)</u>	<u>Illegal Reentry of Removed Alien</u>	<u>One</u>
Set 2	<u>42 USC 408(a)(7)(A)</u>	<u>Social Security Number Fraud</u>	<u>Two</u>
Set 3	_____	_____	_____
Set 4	_____	_____	_____
Set 5	_____	_____	_____
Set 6	_____	_____	_____
Set 7	_____	_____	_____
Set 8	_____	_____	_____
Set 9	_____	_____	_____
Set 10	_____	_____	_____
Set 11	_____	_____	_____
Set 12	_____	_____	_____
Set 13	_____	_____	_____
Set 14	_____	_____	_____
Set 15	_____	_____	_____

ADDITIONAL INFORMATION: